

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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HODELL-NATCO INDUSTRIES, INC.,

Plaintiff,

-vs-

SAP AMERICA, INC., et al.,

Defendant.  
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: CASE NO. 1:08 CV 02755

: ORDER

UNITED STATES DISTRICT JUDGE LESLEY WELLS

This Court, having reviewed Hodell's and SAP's deposition designations for Udi Ziv and the parties' respective objections thereto, resolves those objections as follows.

**I. SAP'S OBJECTIONS TO HODELL'S DEPOSITION DESIGNATIONS OF DEPOSITION TESTIMONY FOR UDI ZIV**

In general, Mr. Ziv's deposition testimony is not admissible because he was asked questions which did not elicit relevant testimony and/or which dealt with topics on which Mr. Ziv lacked personal knowledge. For example, much of the deposition conducted by Plaintiff consisted of presenting Mr. Ziv with documents for which he was not the author and then questioning him about what someone else meant when they wrote something many years prior to his deposition. For these reasons and those set forth in SAP's Motion *in Limine* No. 5 and below, SAP believes Mr. Ziv's deposition testimony is inadmissible at trial. However, in the event that certain of Mr. Ziv's deposition testimony is permitted at trial, and without waiver of its Motion *in Limine* or its objections, SAP has also counter-designated certain testimony.

Testimony Designated by Hodell	SAP's Objections to Hodell's Designated Testimony
10:15 – 11:1.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402 and 403. <i>Sustained</i></li> </ul>
15:6 – 16:12.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402, 403 and 602. <i>Sustained</i></li> </ul>
17:7 – 16.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402 and 403. <i>Sustained</i></li> </ul>
20:2 – 21.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402, 403, 602 and 611. <i>Sustained except 20:17-20:21 are overruled</i></li> </ul>
22:7 – 11.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402, 403 and 602. <i>Sustained</i></li> </ul>
24:2 – 25:8.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402, 403 and 602. <i>Sustained</i></li> </ul>
25:15 – 18.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402 and 403. <i>Sustained</i></li> </ul>

26:9 – 16.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402, 403 and 602. <i>Sustained</i></li> </ul>
26:17 – 27:11.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402, 403 and 602. <i>Sustained</i></li> </ul>
27:12 – 22.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 602 (witness testified not involved in marketing). <i>Sustained</i></li> </ul>
27:23 – 25; 28:21-31:10.	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 602 (witness testified not involved in marketing). <i>Sustained</i></li> </ul>
31:11 – 33:2.	<ul style="list-style-type: none"> <li>SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 221. <i>Sustained</i></li> <li>SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403, 602, and 802.</li> </ul>
33:17 – 36:10	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402, 403, 602 and 802. <i>Sustained</i></li> </ul>
36:11 – 17; 37:3 – 38:21	<ul style="list-style-type: none"> <li>SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 222. <i>Sustained</i></li> <li>SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403 and 407.</li> </ul>
39:23 – 40:2	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402 and 403. <i>Sustained</i></li> </ul>
40:3 – 44:16; 45:9 – 46:3	<ul style="list-style-type: none"> <li>SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 222. <i>overruled</i></li> <li>SAP additionally objects to this testimony under Federal Rules of Evidence 402 and 403.</li> </ul>
47:25 – 53:2	<ul style="list-style-type: none"> <li>SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 222. <i>overruled</i></li> <li>SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403 and 602.</li> </ul>
53:3 – 59:21;	<ul style="list-style-type: none"> <li>SAP objects to the introduction of this exhibit and related testimony for</li> </ul>

60:6 – 14	<p>the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 223.</p> <p><i>Sustained</i></p> <ul style="list-style-type: none"> <li>• SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403, 602 and 802.</li> </ul>
60:15 – 61:6	<ul style="list-style-type: none"> <li>• SAP objects to this testimony under Federal Rules of Evidence 402 and 403</li> </ul> <p><i>Overruled</i></p>
61:7 – 63:7	<ul style="list-style-type: none"> <li>• SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 223.</li> </ul> <p><i>Overruled</i></p> <ul style="list-style-type: none"> <li>• SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403, 602 and 802.</li> </ul>
63:8 – 15; 63:24 – 66:4; 66:14 – 75:9; 75:24 – 82:11	<ul style="list-style-type: none"> <li>• SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 224.</li> </ul> <p><i>Sustained</i></p> <ul style="list-style-type: none"> <li>• SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403, 602 and 802.</li> </ul>
82:21 – 83:24	<ul style="list-style-type: none"> <li>• SAP objects to this testimony under Federal Rules of Evidence 402, 403 and 602.</li> </ul> <p><i>Sustained</i></p>
86:21 – 22; 87:18 – 89:8; 89:25 – 104:7	<ul style="list-style-type: none"> <li>• SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 11.</li> </ul> <p><i>Overruled</i></p> <ul style="list-style-type: none"> <li>• SAP additionally objects to this testimony under Federal Rules of Evidence 402 and 403.</li> </ul>
104:8 – 105:5; 106:4 – 12	<ul style="list-style-type: none"> <li>• SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 225.</li> </ul> <p><i>Sustained</i></p> <ul style="list-style-type: none"> <li>• SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403 404, 602, 802 and 805.</li> </ul>
106:13 – 109:24	<ul style="list-style-type: none"> <li>• SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 16.</li> </ul> <p><i>Overruled</i></p> <ul style="list-style-type: none"> <li>• SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403 and 602.</li> </ul>

112:4 – 21	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rule of Evidence 602.</li> </ul> <p><i>Overruled</i></p>
112:22 – 113:17; 114:12-15	<ul style="list-style-type: none"> <li>SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 226.</li> </ul> <p><i>Overruled</i></p> <ul style="list-style-type: none"> <li>SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403 and 602.</li> </ul>
120:21 – 122:17	<ul style="list-style-type: none"> <li>SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 251.</li> </ul> <p><i>Overruled</i></p> <ul style="list-style-type: none"> <li>SAP additionally objects to this testimony under Federal Rules of Evidence 402 and 403.</li> </ul>
127:10 – 131:25	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402, 403 and 602.</li> </ul> <p><i>Overruled</i></p>
132:23 – 136:1	<ul style="list-style-type: none"> <li>SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 228.</li> </ul> <p><i>Overruled</i></p> <ul style="list-style-type: none"> <li>SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403 and 602.</li> </ul>
136:2 – 141:20	<ul style="list-style-type: none"> <li>SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 229.</li> </ul> <p><i>Overruled</i></p> <ul style="list-style-type: none"> <li>SAP additionally objects to this testimony under Federal Rules of Evidence 402, 403 and 602.</li> </ul>
152:7 – 24	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402, 403 and 602.</li> </ul> <p><i>Sustained</i></p>
152:25 – 159: 2	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402, 403 and 602.</li> </ul> <p><i>Sustained</i></p>
160:2 – 163:8	<ul style="list-style-type: none"> <li>SAP objects to this testimony under Federal Rules of Evidence 402 and 403.</li> </ul> <p><i>Sustained</i></p>
163:9 – 165:2	<ul style="list-style-type: none"> <li>SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 11.</li> </ul> <p><i>Overruled</i></p> <ul style="list-style-type: none"> <li>SAP additionally objects to this testimony under Federal Rules of</li> </ul>

	Evidence 402 and 403.
169:6 – 171:13	<ul style="list-style-type: none"><li>• SAP objects to the introduction of this exhibit and related testimony for the reasons stated in SAP's Objections to Plaintiff's Proposed Trial Exhibit List at Proposed Trial Exhibit No. 222.</li><li>• <i>overruled</i> SAP additionally objects to this testimony under Federal Rules of Evidence 402 and 403.</li></ul>

*Henry Driggs*  
*U.S. District Judge*  
*N.D. Ohio*

**II. HODELL'S OBJECTIONS TO SAP'S COUNTER-DESIGNATION OF  
DEPOSITION TESTIMONY FOR UDI ZIV – WITH SAP'S REPLIES**

**No objections received.**